

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re REFCO INC. SECURITIES LITIGATION

Case No. 07-MD-1902 (JSR)

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This Document Relates to:

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KENNETH M. KRYIS, et al.,

Case No. 08-CV-3065 (JSR)

Plaintiffs, :

Case No. 08-CV-3086 (JSR)

-against-

CHRISTOPHER SUGRUE, et al.,

**NOTICE OF MOTION FOR  
SUMMARY JUDGMENT**

Defendants. :

**ORAL ARGUMENT  
REQUESTED**

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PLEASE TAKE NOTICE that, upon Moving Defendants' Memorandum in Support of Summary Judgment, and the accompanying Rule 56.1 Statement and the Declaration of James J. Capra, Jr., dated August 2, 2012 and the exhibits thereto, and at a time and location to be determined, defendants Credit Suisse Securities (USA) LLC and Merrill Lynch, Pierce, Fenner & Smith, Incorporated, as successor-by-merger to Banc of America Securities LLC (the "Bank Defendants") will move this Court for an order dismissing the remaining count of the Amended Complaint directed at the Bank Defendants (Count XXII) pursuant to Rule 56 of the Federal Rules of Civil Procedure, and granting such other and further relief as the Court deems just and proper.<sup>1</sup> Plaintiffs' response to the motion is due on August 23, 2012 in accordance with the directive of the Special Master.

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<sup>1</sup> In seeking leave to file these motions, Moving Defendants reserved their right to move for summary judgment on other grounds at the appropriate time, if necessary. Plaintiffs consented to these motions being heard on an expedited basis in advance of summary judgment motions on

Dated: New York, New York  
August 2, 2012

Respectfully submitted,

**WILMER CUTLER PICKERING  
HALE AND DORR LLP**

By: /s/ Philip D. Anker

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Securities (USA) LLC and Merrill Lynch,  
Pierce, Fenner & Smith, Incorporated, as  
successor-by-merger to Banc of America  
Securities LLC*

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other issues, and the Special Master, in consultation with the Court, agreed to hear them at this time. *See* emails dated July 30 and 31, 2012 among Special Master Capra, counsel for Plaintiffs (Dennis Blackhurst) and counsel for the Bank Defendants (Philip Anker).